



**EXTENDED PERMIT TERMS FOR MINOR SOURCE OPERATING PERMITS
(MSOPS) AND FEDERALLY ENFORCEABLE STATE OPERATING PERMITS
(FESOPS)**

LSA Document #06-487

Overview

This rule will extend permit terms for Minor Source Operating Permits (MSOPs) and Federally Enforceable State Operating Permits (FESOPs) for up to ten (10) years in accordance with IC 13-15-3-2.

Citations Affected

Amends 326 IAC 2-1.1-9.5, 326 IAC 2-6.1-7, and 326 IAC 2-8-4. Repeals 326 IAC 25-2-2.

Affected Persons

This rule affects the owner or operator of any source subject to a MSOP or FESOP.

Reasons for the Rule

In 1996, the Indiana General Assembly passed a law that allows a permit term of up to ten years for certain permit renewals. The current rules require renewal of MSOPs and FESOPs after five (5) years.

Economic Impact of the Rule

This rule will have a positive economic impact on affected sources from the reduced time spent on permit renewal applications. In addition, MSOP sources that are not applying for new construction with the renewal will save \$100 for each permit renewal that is not needed.

This rule will reduce the costs to IDEM associated with the time and effort required for processing these permit renewal applications. While sources with MSOP or FESOP permits represent only a small amount of emissions in Indiana, they require a large amount of IDEM permitting resources, so the reduced frequency of these renewals will provide a significant time savings for IDEM.

Benefits of the Rule

IDEM has determined that extending MSOP and FESOP permit renewal terms for up to ten (10) years will provide time savings to IDEM and the affected sources by reducing the time and effort required for more frequent permit application submittal and processing.

Description of the Rulemaking Project

In 1996, the Indiana General Assembly passed a law that allows a permit term of up to ten years for certain permit renewals. Except as provided in federal law, Indiana Code 13-15-3-2 allows that "a valid permit . . . that concerns an activity of a continuing nature may be renewed for a period of not more than ten (10) years as determined by the department."

IDEM has determined that extending MSOP and FESOP permit renewal terms for up to ten (10) years will provide time and cost savings to IDEM and the affected sources by reducing the time and effort required for more frequent permit application submittal and processing. While sources with MSOP or FESOP permits represent only a small amount of emissions in Indiana, they require a large amount of IDEM permitting resources.

The Environmental Stewardship Program (ESP) and Comprehensive Local Environmental Action Network (CLEAN) rulemaking includes a section addressing ten (10) year permits for MSOP and FESOP permit renewals. Because the ESP/CLEAN rulemaking is further along in the rulemaking process, the provision will not be removed from that rulemaking so that it will be available to members of those two programs as quickly as possible. However, when this rulemaking becomes effective, the provision in the ESP/CLEAN rule tentatively located at 326

IAC 25-2-2 in the draft ESP/CLEAN rule will become redundant and will be removed.

This rule also makes some minor formatting and editorial changes consistent with the Legislative Services Agency style guidelines.

Scheduled Hearings

First Public Hearing: Noticed for February 7, 2007, hearing opened and continued to March 7, 2007, at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana.

Second Public Hearing: May 2, 2007, at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant, animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

The amended rules are consistent with federal laws, rules, and guidance.

Rulemaking Process

The first step in the rulemaking process is publication of one of three types of notices in the *Indiana Register*. The first type of notice is

a first notice of comment period. The first notice of comment period includes a discussion of issues and opens a first comment period. A second notice is then published which contains the comments and the departments responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The second type of notice is a section 7 notice. A section 7 notice contains a determination by the commissioner under IC 13-14-9-7 that only one comment period is required. It contains the commissioner's determination and findings, the draft rule, a request for written comments and a notice of first meeting/hearing. The third type of notice is a section 8 notice. A section 8 notice contains a determination by the commissioner under IC 13-14-9-8 that no public comment periods are required. It contains the commissioner's determination and findings, the draft rule and a notice of first meeting/hearing. In each case the Air Pollution Control Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule is reviewed for form and legality by the Attorney General, signed by the Governor, and becomes effective 30 days after filing with the Publisher. This rulemaking was initiated with a section 7 notice.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Christine Pedersen, Rules Development Section, Office of Air Quality, (317) 233-6868 or (800) 451-6027 (in Indiana).